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DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER 97-0056
Income Tax
Calendar Years: 1992, 1993, & 1994

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ISSUES

I. **Adjusted Gross Income.** – Charitable Contributions

Authority: 45 IAC 3.1-1-8(2)

The taxpayer protests the addback of charitable contributions.

II. **Adjusted Gross Income.** – Business Income

Authority: IC 6-3-1-20

The taxpayer protests the reclassification of business income to nonbusiness income.

STATEMENT OF FACTS

The taxpayer is an investment holding company that directly and indirectly owns 50% of a steel plant limited partnership. The steel plant limited partnership does business in Indiana. The taxpayer files as a regular C corporation.

I. **Adjusted Gross Income.** – Charitable Contributions

DISCUSSION

The taxpayer argues the charitable contribution was a pass through item on the partnership K-1 and was not deducted on the federal tax return. A review of the taxpayer's federal return reveals the charitable contribution was in fact deducted.

Indiana Regulation 45 IAC 3.1-1-8, states, "Adjusted Gross Income, with respect to corporate taxpayers is "taxable income" as defined in Internal Revenue Code-section 63 with three adjustments: . . . (2) Add back deductions taken pursuant to Internal Revenue Code – section 170 (charitable contributions);"

As the taxpayer deducted charitable contributions on the federal return, the charitable contributions are added back to federal taxable income to arrive at Indiana Adjusted Gross Income.

FINDING

The taxpayer's protest is denied. The charitable contributions have been deducted on the federal return, and therefore, are added back to federal taxable income to arrive at Indiana Adjusted Gross Income.

II. **Adjusted Gross Income.** – Business Income

DISCUSSION

The taxpayer's sole business purpose is to hold an investment in the steel plant limited partnership. The taxpayer owns a 49.5% interest in the limited partnership as a limited partner. In addition, the taxpayer owns 50% of the general partner that controls and manages the day-to-day operations of the steel plant partnership.

Under IC 6-3-1-20, "business income" is defined as "income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations."

The taxpayer's distribution from the steel plant partnership qualifies as business income for two reasons. First, the business purpose of the taxpayer is to hold an investment in the steel plant partnership. Second, the taxpayer has control of the steel plant partnership as the taxpayer has a 50% ownership in the general partner. On these two points, the partnership distribution qualifies as business income.

FINDING

The taxpayer's protest is sustained. The partnership distribution is considered to be business income.